ANNUAL REPORT

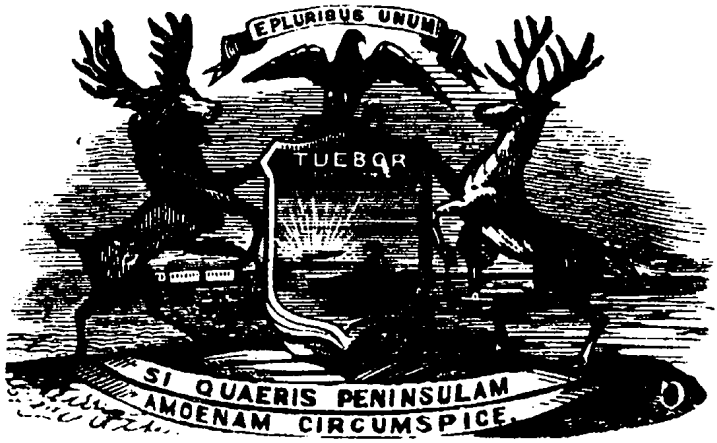
OF THE

ATTORNEY GENERAL

OF THE

STATE OF MICHIGAN,

FOR THE YEAR 1842.



BY AUTHORITY.

LANSING:
PRINTED BY THE STATE PRINTERS.
1842.

REPORT.

To the Legislature of the State of Michigan:

In obedience to the statute requiring the Attorney General "to make and submit to the Legislature, at the commencement of the annual session, a report of all the official business done by him during the preceding year," I have the honor to present the annexed schedule marked (A), which exhibits a brief summary of the business performed by me since the date of my last annual report.

The schedule marked (B), also annexed, is an abstract of the annual reports made by the Prosecuting Attorneys of the several counties, as required by law, showing the official business done by them during the past year. The prosecuting attorneys of the counties of Eaton, Ionia, Kent, Ottawa, Lapeer, Macomb, Oakland, Shiawassee, and St. Clair, have neglected to make their reports. The schedule embraces all the other counties of the State, and exhibits "the amount and kind of business done, the number of persons prosecuted, the crimes and misdemeanors for which such prosecutions were had, the results thereof, and the punishment awarded against the persons convicted thereon."

All of which is respectfully submitted,

Z. PLATT,

Attorney General.

Detroit, December 27, 1842.

For appendix, see Joint Documents 1842,—State Library.

[SCHEDULE A.]

Statement of official business transacted since the date of last annual report.

Circuit Court United States in Equity.

George W. Jermain, Treasurer, impleaded with Schuyler Hodges, &c., *ads.* Richard Suydam and others.

This suit was instituted by the complainant for the foreclosure of a mortgage against S. Hodges and others, and the State Treasurer was made a party defendant, as the holder of a prior mortgage upon the same premises.

In Chancery, Second Circuit.

Stevens T. Mason, Governor, &c., impleaded with William Ford, &c., *ads.* Joseph D. Beers.

This suit was also instituted by the complainant for the foreclosure of a mortgage on property which had been attached by the state. I appeared and defended, but no proceedings have been had subsequently to the filing of bill.

In Chancery, First Circuit.

The State of Michigan, *vs.* Ralph Updike.

The defendant was the pretended owner of land in the town of Grass Lake, Jackson county, which was crossed by the railroad. He commenced a great number of vexatious suits before different magistrates in Jackson county, against the captains of the cars and the engineers, for trespass; and this bill was filed and injunction obtained to quiet the annoyance.

In Chancery, First Circuit.

Eurotas P. Hastings,
ads.
Michigan State Bank.

This bill was filed by the complainants against E. P. Hastings, as one of the commissioners appointed by a former legislature to settle with the state bank, and prayed that he might be enjoined from delivering over to his successor such of the state bank assets as were then in his possession, and that he might be directed to hold the same as trustee for their benefit, to pay off and satisfy certain debts which, by the terms of the settlement made by the bank with the state officers, the state were to indemnify against.

Upon argument before the chancellor, the motion for injunction was denied.

Supreme Court.

Z. Platt, Attorney General,
vs.
The Michigan Insurance Co. of Detroit.

September term, 1842. Filed information in the nature of *quo warranto.* The defendants were chartered as an Insurance company. They claim to possess banking powers also. This proceding was instituted to test their pretended right.

In Chancery, First Circuit.

The Same,
vs.
The Same.

Upon instituting proceedings in the supreme court, a bill was filed in chancery, for injunction, which was granted, prohibiting the company from exercising banking powers until the question of right should be determined by the supreme court.

Circuit Court of the United States, District of Michigan, in Equity.

Charles G. Hammond, and others,
ads.
John H. Ostrom, and others.

This bill was filed by the complainants to prohibit the sale of their

lands for the taxes of 1838. It was claimed by them that at the time of the assessment, they had no evidence of title except the *Land Office certificate*, and insisted that until the *patent* issued, the title was in the United States, and the lands not subject to taxation. The bill prayed for an injunction to stay the sale. The court denied the motion, and decided that lands purchased and paid for at the United States land office, ceased to be a part of the public domain, and were subject to taxation, even though the patent was not issued until afterwards.

Circuit Court of the United States.

The Same,
ads.
Wm. H. Imley.

The like as in preceding case.

Circuit Court of the United States.

The Same,
ads.
Arthur Bronson, &c.

The like as in preceding case.

In Chancery, First Circuit.

Z. Platt, Attorney General,
vs.
The Oakland Co. Bank.

Nov. 4, 1842. Filed bill for injunction upon the ground of insolvency, and violation of charter. The injunction was allowed by the Chancellor, and subsequently modified.

Supreme Court.

The Same,
vs.
The Same.

Filed information in the nature of *quo warranto*. The legislature in January, 1842, repealed the charter of this bank; and they are cited by this proceeding to show by what right or authority they claim to exercise banking powers.

Supreme Court.

Eurotas P. Hastings, Auditor General, } *ads.* John Chamberlin. }

The judges of the circuit court for Wayne county, had awarded to J. Chamberlin $6,244 52 damages for the alleged non-performance by the commissioners of internal improvement of their contract with him. By the terms of that contract, Chamberlin agreed to do team work upon the line of the railroad between Detroit and Ypsilanti, consisting chiefly of the transportation of provisions for the use of the men engaged in constructing the railroad. He was to be paid one dollar per hundred for all that he transported; and he also agreed to carry, at the same price, all such other articles as he might be required by the commissioners to carry and transport. After teaming it for several months he was paid for all the work he had done, and was not required to do any more. Mr. Chamberlin then filed his claim against the state, and insisted before the judges of Wayne county circuit that his contract entitled him to the transportation of all the railroad iron used in the construction of the road between Detroit and Ypsilanti, and that he was entitled to pay for carrying it, although he did not carry it.

The court decided that Chamberlin was entitled by his contract to the transportation of all the railroad iron, and awarded him $6,244 52, being the profits he would have made if he had been required to transport it.

I advised the Auditor General not to draw his warrant upon the Treasurer; and he accordingly withheld it. Chamberlin then applied to the supreme court for a *mandamus* to compel the Auditor General to draw his warrant for the amount awarded.

This motion was argued before the supreme court in connection with a motion on my part for the allowance of a writ of *certiorari*, to arrest the errors of the circuit court. The whole matter remains with the court undetermined.

Circuit Court for Wayne County.

State of Michigan,
vs.
John Van Fossen.

This suit was brought to recover a balance due from the defendant as commissioner of internal improvement, and is now pending.

Circuit Court for Jackson County.

Stevens T. Mason, Governor, &c.,
vs.
William Ford and others.

A law was enacted in 1840 (see page 53, session laws 1840,) authorizing any judge of the Circuit Court of any county in which a writ of *attachment* is issued, to cite the plaintiff before him to show cause why the attachment should not be dissolved. And "if the said judge shall be satisfied that such plaintiff had not a good and legal cause for sueing out such writ, the judge may order the attachment dissolved."

In pursuance of that statute, I was cited to appear before one of the associate judges of Jackson county, to show cause why an attachment (which had been issued by my predecessor) should not be dissolved. The judge, after hearing argument, decided that there was no good cause for sueing out the writ, and dissolved the attachment.

Besides the foregoing, many suits are in progress, (some commenced previous and others subsequent to the date of my last report) for the collection of demands transferred by the Michigan State Bank to the state. By a law of the last session, the Auditor General, State Treasurer and Secretary of State, were constituted trustees of these assets, and are charged with their collection and management. I have not, therefore, deemed it necessary to give a detailed statement of them in this report.

[Schedule B.]

Abstract of Reports of Prosecuting Attorneys, exhibiting the criminal business of 1842.

Allegan County—H. K. Clarke, Prosecuting Attorney.

No indictments found in all 1842.

Berrien County—J. N. Chipman, Prosecuting Attorney.

Perjury,	1
Rape,	1
Assault with intent to kill,	1
Buggery,	1
	4

Convicted and sent to penitentiary,	2
Convicted and sentence suspended,	1
Still pending,	1

The report of Mr. Chipman embraces only the period subsequent to September, 1842, when he entered upon the duties of his office. His predecessor has made no report.

Branch County—E. G. Fuller, Prosecuting Attorney.

Larceny,	2
Uttering counterfeit coin,	1
Affray,	1
Burglary,	1
Assault and battery,	5
Nuisance,	1
Buggery,	1
	12

Convicted and sentenced to penitentiary,	1	
Convicted and fined and imprisoned,	4	
Discharged or still pending,	7	

Calhoun County—Edward Bradley, Prosecuting Attorney.

Perjury,	1
Larceny,	6
Having in possession instruments for coining money,	2
Obtaining property by false pretences,	2
Malicious mischief,	1
Breaking jail,	1
Selling liquor without a license,	1
Assault on officer,	1
Maintaining nuisance,	4
Constable refusing to pay over money,	1
	20

Convicted and sentenced to penitentiary,	2	
Convicted and fined,	2	
Discharged or still pending,	16	

Cass County—James Sullivan, Prosecuting Attorney.

Perjury,	1
Having counterfeit bills with intent, &c.	1
Larceny,	1
Adultery,	1
Obtaining goods under false pretences,	1
Lewd and lascivious cohabitation,	3
Assault and battery,	7
	15

Convicted and sentenced to penitentiary,	1	
do do county jail,	1	
do fined,	6	
Discharged or still pending,	7	

Clinton County—S. Towson, Prosecuting Attorney.

Perjury,	1
Polygamy,	2
Adultery,	1
Assault with intent to kill,	1
Assault and battery,	2
	7
Discharged, 2	
Still pending, 5	

Genesee County—James Birdsall, Prosecuting Attorney.

Disturbing religious worship,	1
Larceny,	1
Keeping ball alley,	1
Assault and battery,	2
Wilful trespass,	1
Selling liquors without license,	5
Selling liquors to Indians,	1
Obtaining money under false pretences,	1
Adultery,	1
	14
Convicted and fined or imprisoned, 3	
Convicted and sentence suspended, 1	
Discharged or still pending, 10	

Hillsdale County—W. W. Murphy, Prosecuting Attorney.

Perjury,	3
Adultery,	2
Assault and battery,	5
Larceny,	6
Selling liquor without license,	3
Obstructing legal process,	1
	20

Convicted and sentenced to penitentiary,	3	
do. fined,	3	
Discharged or still pending,	15	

Ingham County—J. W. Burchard, Prosecuting Attorney.

Larceny,		1
Assault and battery;		1
		2
Discharged,	2	

Jackson County—Phineas Farrand, Prosecuting Attorney.

Forgery,		4
Perjury,		4
Larceny,		2
Lewd and lascivious conduct,		2
Assault and battery with intent to kill,		3
Assault and battery with dangerous weapons,		2
Selling spiritous liquor without license,		3
Obstructing Central railroad,		2
Defacing buildings,		1
Escaping from prison,		2
Assault and battery,		1
		26
Convicted and sentenced to penitentiary,	1	
do. and finded or sent to jail,	5	
Discharged or still pending,	19	

Kalamazoo County—N. A. Balch, Prosecuting Attorney.

Assault and battery,		3
Violation of election law,		3
		6

Carried forward,

Brought forward,	6
Assault and battery with intent to kill,	1
Larceny,	8
Horse stealing,	6
Perjury,	1
Maiming cattle,	1
Libel,	1
Breach of the peace,	2
Resisting public officer,	1
	27

Convicted and sent to county jail,	2
Convicted and not yet sentenced,	3
Discharged or still pending,	22

Lenawee County—A. R. Tiffany, Prosecuting Attorney.

Larceny,	3
Assault and battery with intent to kill,	2
Breaking jail,	3
Assault and battery,	2
Uttering forged note,	1
Obtaining property under false pretences,	1
Having in possession instruments for coining,	2
Adultery,	1
Perjury,	2
Keeping nuisance,	3
Rape,	1
Malicious trespass,	1
	22

Convicted and sentenced to penitentiary,	3
do do. to county jail or fined,	6
Discharged or still pending,	13

Livingston County—F. C. Whipple, Prosecuting Attorney.

Adultery,	1
Assault and battery,	1
Malicious trespass,	3
Embezzlement and larceny,	5
Forgery,	1
Resisting officer,	3
Obtaining property under false pretences,	2
Disturbing religious worship,	1
Fraud,	1
Challenging to fight a duel,	1
	19
Convicted and judgment suspended, 3	
Discharged or still pending, 16	

Monroe County—I. P. Christiancy, Prosecuting Attorney..

Larceny,	11
Perjury,	9
Assault on officer,	3
Forgery,	1
Riotous assault,	11
Assault and battery,	10
Conspiring to defraud,	3
Having counterfeit bills with intent to pass,	1
Affiliation,	2
Embezzlement,	1
Burglary,	1
Gross fraud upon the public,	1
Keeping house of ill fame,	1
Keeping gaming house,	1
Carried forward,	55

Brought forward,	55
Victualling house keeper suffering a person to become intoxicated in his house,	1
Libel,	1
	57

Convicted and sentenced to penitentiary,	1
do. do. county jail or fined,	13
Discharged or still pending,	43

St. Joseph County—J. E. Johnson, Prosecuting Attorney.

Having counterfeit money with intent, &c.	1
Passing counterfeit money,	1
Burglary and larceny,	2
Perjury,	1
Larceny,	1
Violation of tavern license laws,	2
Assault with intent to murder,	1
Assault and battery,	5
	14

Convicted and fined,	2
Discharged or still pending,	12

Van Buren County—A. W. Braughton, Prosecuting Attorney.

Larceny,	1
Illegal voting,	2
Assault and battery,	2
	5

Convicted and fined,	1
Discharged or still pending,	4

Washtenaw County—E. Mundy, Prosecuting Attorney.

Assault and battery,	6
Larceny,	2
Perjury,	1
Nuisance,	2
Conspiring to defraud,	1
Firing woods,	1
	13

Convicted and fined and imprisoned,	2
Convicted and not sentenced,	1
Discharged or still pending,	10

Wayne County—J. A. Vandyke, Prosecuting Attorney.

Murder,	1
Assault with intent to murder,	3
Rape,	1
Perjury,	2
Assault upon officers,	2
Malicious injury of personal property,	2
" breaking windows,	2
Conspiracy to steal,	1
Adultery,	1
Threatening, to extort money,	1
Receiving stolen goods,	5
Passing counterfeit money,	8
Possession of counterfeit bills with intent to pass,	2
Obtaining money and goods under false pretence,	2
Burglary,	1
Forgery,	2
Carried forward,	37

Brought forward,	87
Larceny,	43
Assault and battery,	25
Indecent exposure of person,	1
Keeping house of ill fame,	5
Lewdness,	1
Neglect of official duty,	2
	114

Convicted and sentenced to penitentiary,	34
" and sentenced to county jail,	7
" and fined,	8
" and judgment suspended,	6
Motion for new trial pending,	1
Discharged,	25
Still pending,	33

[No. 6.]

Annual Report of the Superintendent of Public Instruction.

OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION,
Ann Arbor, December, 1840.

To the Legislature of the State of Michigan:

In obedience to law, the Superintendent of Public Instruction submits his annual report.

The abstracts of returns from the townships and districts, covering some fifty pages of the last and preceding reports, and the list of